

**REMARKS**

**INTRODUCTION**

In accordance with the foregoing, claims 1, 10, and 15-20 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-20 are pending and under consideration. Reconsideration is respectfully requested.

**ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116**

Applicant requests entry of this Rule 116 Response and Request for Reconsideration because the amendment of claims 1, 10, and 15-19 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised, and because the amendments do not significantly alter the scope of the claims and at least place the application in a better form for appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." (Emphasis added.) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**REJECTIONS UNDER 35 U.S.C. §103**

**Claims 1-5, 10-14, and 19-20**

In the Office Action at pages 2-3, numbered item 2, claims 1-5, 10-14, and 19-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 20010015944 by Takahashi, et al. in view of Japanese Laid Open Publication No. 7-141837 to Nakamura. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Amended independent claim 1 is directed to a record and playback apparatus which codes information and records said information which is coded in a recording medium. In relevant part, amended independent claim 1 has been amended to recite that "said information is recorded at a variable bit rate." Support for this amendment can be found in the originally filed Specification at page 2, line 31 to page 3, line 10. Independent claims 10 and 19 have been amended to include similar features.

In a non-limiting example, the present invention may allow for an easy-to-use playback system for playing back information recorded at a variable bit rate. Because information size is not fixed when data is recorded at a variable bit rate, it is difficult to specify or locate the start of a recorded sequence by searching using time information because the information size does not correspond to the decoded playback image. According to the present invention, because the time of recording is recording, an accurate time search may be performed on data recorded at a variable bit rate.

Takahashi, et al., in contrast to the present invention, is directed to a recording method and apparatus for continuous playback of fragmented signals and is concerned with reducing the number of seek operations in an operation to play back a signal from a recording medium. Applicant respectfully submits that Takahashi, et al. fails to teach or suggest that the recorded information is recorded at a variable bit rate.

Nakamura is directed to a method of recording audio data to a disk shaped storage medium and seeks to smoothly move a reproducing point in the reverse direction at the time of specifying an editing point in an audio editor. Applicant respectfully submits that Nakamura fails to teach or suggest that the recorded information is recorded at a variable bit rate.

Neither Takahashi, et al. nor Nakamura teach or suggest that information is recorded at a variable bit rate. Accordingly, Applicant respectfully submits that Takahashi, et al. and Nakamura, taken alone or in combination, fail to teach or suggest all of the features of independent claims 1, 10, and 19. Thus, Applicant respectfully submits that amended independent claims 1, 10, and 19 patentably distinguish over the prior art and are in condition for allowance.

As the rejections of claims 2-5, 11-14, and 20, which depend from amended independent claims 1, 10, and 19, fail to cure the deficiencies noted in Takahashi, et al. and Nakamura, Applicant respectfully submits that claims 2-5, 11-14, and 20 patentably distinguish over the prior art for at least those reasons as the independent claims from which they depend.

#### **Claims 6-7 and 15-16**

In the Office Action at pages 3-4, numbered item 3, claims 6-7 and 15-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi, et al. in view of Nakamura and further in view of U.S. Patent No. 6,408,338 to Moon, et al. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

In the outstanding Office Action, Moon, et al. is relied upon only to teach a user input feature. Applicant respectfully submits that Moon, et al. fails to teach or suggest that information

is recorded at a variable bit rate. Thus, Moon, et al. fails to cure the deficiencies of Takahashi, et al. and Nakamura.

Accordingly, Applicant respectfully submits that Takahashi, et al., Nakamura, and Moon, et al., taken alone or in combination, fail to teach or suggest all of the features of dependent claims 6-7 and 15-16. Thus, Applicant respectfully submits that claims 6-7 and 15-16 patentably distinguish over the prior art for at least the same reasons as amended independent claims 1 and 10, from which they depend.

#### **Claims 8 and 17**

In the Office Action at pages 4-5, numbered item 4, claims 8 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi, et al. in view of Nakamura and further in view of U.S. Patent No. 6,553,180 to Kikuchi, et al. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

In the outstanding Office Action, Kikuchi, et al. is relied upon only to teach that an index is inputted by a user to locate desired information. Applicant respectfully submits that Kikuchi, et al. fails to teach or suggest that information is recorded at a variable bit rate. Thus, Kikuchi, et al. fails to cure the deficiencies of Takahashi, et al. and Nakamura.

Accordingly, Applicant respectfully submits that Takahashi, et al., Nakamura, and Kikuchi, et al., taken alone or in combination, fail to teach or suggest all of the features of dependent claims 8 and 17. Thus, Applicant respectfully submits that claims 8 and 17 patentably distinguish over the prior art for at least the same reasons as amended independent claims 1 and 10, from which they depend.

#### **Claims 9 and 18**

In the Office Action at page 5, numbered item 5, claims 9 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi, et al. in view of Nakamura and further in view of U.S. Patent No. 5,999,933 to Mehta. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

In the outstanding Office Action, Mehta is relied upon only to teach that a user can input a backward pointer for locating recorded files of information. Applicant respectfully submits that Mehta fails to teach or suggest that information is recorded at a variable bit rate. Thus, Mehta fails to cure the deficiencies of Takahashi, et al. and Nakamura.

Accordingly, Applicant respectfully submits that Takahashi, et al., Nakamura, and Mehta, taken alone or in combination, fail to teach or suggest all of the features of dependent claims 9

and 18. Thus, Applicant respectfully submits that claims 9 and 18 patentably distinguish over the prior art for at least the same reasons as amended independent claims 1 and 10, from which they depend.

## CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 28 November 2005

By:   
Allison Olenginski  
Registration No. 55,509

1201 New York Ave, N.W., Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501